

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

24-cr-424 (JGK)

- against -

ORDER

HDR GLOBAL TRADING LIMITED,

Defendant.

JOHN G. KOELTL, District Judge:

The Government maintains that, for purposes of calculating the fine in this case, the amount of gain attributable to the offense is \$128,385,000. The defense contends that the amount has not been properly calculated based on the reports the Government is using. The defense says that a more accurate estimate of the gain is \$30,000,000. The Court could not determine based on the parties' submissions that the Government has presented a reliable estimate of the loss.

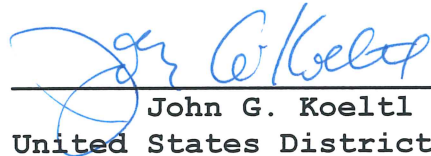
In its most recent submission dated October 3, 2024, the defense says it is prepared to go forward to sentencing without a Fatico hearing and, if the Government's estimate of gain is insufficient, then it should simply be rejected. The Government has argued that the defense objections to the Government's calculation should have been raised earlier with specific objections to the figure that was accepted in the Pre-Sentence Report. The defense objections to the Government's calculation was contained in a reply submission by the defense to the Government's sentencing submission.

But if the parties cannot reach agreement, the Court must be satisfied as to the calculations for purposes of determining the Guideline calculation of a fine, although the Guidelines are only the beginning point of the Court's analysis and the Court must ultimately determine the sentence based on the Court's application of the factors in 18 U.S.C. § 3553. The Court also notes that the parties' submissions are unusual with respect to the amount of mutual recriminations and, to that extent, are not very helpful.

If the parties are unable to reach agreement, the Court will hold a Fatico hearing. The parties should advise the Court by **noon** on **October 4, 2024**, whether the parties have reached agreement.

SO ORDERED.

**Dated: New York, New York
October 3, 2024**



John G. Koeltl
United States District Judge